

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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RANDY DIBBLE and LINDA  
DIBBLE,

Case No. 1:05-CV-201

Plaintiffs,

Hon. Richard Alan Enslen

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER

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This matter is before the Court on Plaintiffs Randy Dibble and Linda Dibble's Motion for Findings and Conclusions on All Issues of Fact. Plaintiffs base their Motion on language from *Federal Maritime Comm'n v. South Carolina Ports Auth.*, 535 U.S. 743 (2002). However, Plaintiffs have misconstrued the law as findings of fact and conclusions of law are not appropriate in this case. *See* FED. R. CIV. P. 52(a). Therefore, the Court construes this as a Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b). *See Feathers v. Chevron U.S.A., Inc.*, 141 F.2d 264, 268 (6th Cir. 1998) (a motion for reconsideration filed outside the 10-day mandatory period under Rule 59 is properly considered a motion pursuant to Rule 60(b)).

The Court denied Plaintiffs' Motion for Summary Judgment, granted Defendant's Motion to Affirm Determination Concerning Collection Action, and dismissed Plaintiffs' Complaint on June 30, 2006. Plaintiffs filed this Motion on September 12, 2006, 74 days after entry of the Judgment. Relief under Rule 60 depends on which of the several subsections of the Rule are specified in the motion. In this case, no subsection clearly applies. *See Lewis v. Alexander*, 987 F.2d 392, 396 (6th Cir. 1993) ("A party seeking relief from judgment under Rule 60(b) must show that its case comes within the provisions of the Rule."). The residual clause, subsection (b)(6), does permit relief in

unusual and extreme situations where the principles of equity mandate relief. *See Olle v. Henry & Wright Corp.*, 910 F.2d 357, 365 (6th Cir. 1990). However, this Motion for Reconsideration does not present such a situation. Plaintiffs have merely restated all their previous arguments and requested the Court render a different decision.

**THEREFORE, IT IS HEREBY ORDERED** that Plaintiffs Randy Dibble and Linda Dibble's Motion for Findings and Conclusions on All Issues of Fact (Dkt. No. 34) is **DENIED**.

DATED in Kalamazoo, MI:  
November 3, 2006

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE